IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5479 of 2007()

CRIME NO.130/2007 OF KANAKAKUNNU POLICE STATION

PETITIONER : 1ST ACCUSED

NISHIL,
NISHIL BHAVANAM,
S/O. PALANI, AGED 19
MUTHUKULAM VILLAGE, ARATTUPUZHA,
KIZHAKKEMURI

BY ADV. SRI.K.R.SUNIL

RESPONDENTS: COMPLAINANT

S.I. OF POLICE
KANAKAKUNNU POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5479 of 2007

Dated this the 17th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Altogether there are 2 accused persons. They face allegations, inter alia, under Sections 308 and 324 r/w 34 I.P.C. The alleged incident took place on 6.7.07 at about 9 p.m near a tea shop. There was absolutely no prior animosity. The incident occurred when the victims were entering a tea shop and consequently an unforeseen exchange of words and altercation followed. The petitioner is alleged to have caused injuries to the victim with a dangerous weapon - knife. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are justified by the materials collected. The learned Public Prosecutor was requested to read to this Court the nature of injuries suffered. No incised injury is shown to have been suffered. No specific injury suggesting any culpable overt act is also shown to exist. Considering the totality of the circumstances, I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner subject to

appropriate conditions which shall safeguard the interests of a fair, efficient and expeditious investigation.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 24.09.2007. He shall be enlarged on regular bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 25.09.2007 & 26.09.2007. During this period, the Investigating Officer shall be at liberty to interrogate the petitioner in custody and effect recovery if any. Thereafter the petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the

petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 24.09.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) without any sureties undertaking to appear before the learned Magistrate on 24.09.07.

(R.BASANT, JUDGE)

rtr/-